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To: All BSAS Licensees

From: Deirdre Calvert, LICSW, Director of the Bureau of Substance Addiction Services

Date: April 3, 2020

Re: Consent for Treatment/Data Submission in BSAS-licensed/contracted Programs

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The purpose of this memo is to provide guidance to all programs licensed/contracted by the Massachusetts Department of Public Health's (DPH) Bureau of Substance Addiction Services (BSAS) regarding consent requirements under 42 CFR Part 2 (Part 2) for the use and disclosure of Patient Identifying Information (PII).

**This guidance will be updated as needed and as additional information is available. Please regularly check [mass.gov/covid19](http://mass.gov/covid19) for updated guidance as well as [samhsa.gov/coronavirus](http://samhsa.gov/coronavirus).**

**SAMHSA Guidance on Applicability of Medical Emergency Exception to Consent Requirements**

The Substance Abuse and Mental Health Services Administration (SAMHSA) has released the following guidance regarding the applicability of the medical emergency exception found at 42 CFR §2.51 to situations where obtaining patient consent for use and disclosure of PII is challenging given the current public health emergency and social distancing measures in effect.

Please note that it is the responsibility of each provider to determine whether a bona fide medical emergency exists for purposes of providing needed treatment to patients.

**[COVID-19 Public Health Emergency Response and 42 CFR Part 2 Guidance](#)**

**Submission of Treatment Data to BSAS**

In addition to the medical emergency exception discussed above, Part 2 also permits Part 2 programs to disclose PII to persons and organizations authorized to conduct audits and evaluation activities *without* a patient's consent under 42 CFR §2.53. Therefore, BSAS, as the state's regulating and licensing agency for substance addiction treatment services, can receive treatment data from addiction treatment providers without a patient's consent.

Please note that consent for disclosure of information to BSAS is separate from the consent for treatment described in the SAMHSA guidance, above.

**For the latest information, visit the DPH 2019 Novel Coronavirus website which is updated frequently: [www.mass.gov/2019coronavirus](http://www.mass.gov/2019coronavirus).**

**CDC website: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>**